

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Philip Douglas Jacobs,	:	
et al.,	:	
	:	
Plaintiffs,	:	Case No. 2:08-cv-713
	:	
v.	:	JUDGE MARBLEY
	:	
Ohio Department of	:	
Rehabilitation and Correction,	:	
	:	
Defendants.	:	

OPINION AND ORDER

This matter is before the Court to consider the motion for summary judgment filed by defendants Ohio civil Service Employees Association, and its directors. Despite being given additional time to do so, plaintiff has not responded to that motion. The motion notes that the same arguments favoring dismissal of the claims against these defendants were adopted by the Magistrate Judge's Report and Recommendation which recommending granting dismissal of the other defendants in the case. The Court has now adopted that Report and Recommendation. See Doc. #50.

For essentially the same reasons, the Court GRANTS the motion for summary judgment filed by the OSCEA defendants (#44). Because those are the only remaining defendants in the case, other than the United States Department of Justice, which has never been served and which is not amenable to suit, this case is TERMINATED and the Clerk is directed to enter judgment accordingly. Plaintiff's notice of appeal, filed prematurely because the case was still pending when the notice was filed, is a nullity. If plaintiff wishes to appeal either this order granting summary judgment to the OSCEA defendants, the prior order dismissing the other defendants, or both, he must file a

new notice of appeal after the Clerk has entered judgment. He is reminded that any notice of appeal that is not accompanied by the required filing fee must be supported by a motion for leave to appeal *in forma pauperis* which specifies the issues to be raised on appeal. See Fed.R.App.P. 24(a)(1)(C).

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
United States District Judge

DATED: November 24, 2009